IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE THIRD DAY OF MAY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

and
THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT APPEAL NO : 972 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 07/04/2005 in WP NO : 7836 OF 2005 on the file of the High Court.)

Between:

BHEL Anusandhana Vikasa Employees Mutually Aided

Cooperative Housing Society Ltd., Regd.
No.AMC/RR/DCO/56/99 dt.15-12-1999 rep. by

its President at Alwal, Rangareddy District Office

at BHEL Colony, Opp:to Lalayala Academy Alwal,

Secunderabad-500 010.

..... APPELLANT

AND

1 T.J.Jayakar, S/o Sri T.Charles,
R/o Flat No.202, Harmany Heavens, Plot No.134,

West Maredpally, Secunderabad.
2 The Cooperative Tribunal, A.P.Hyderabad.

.....RESPONDENTS

Counsel for the Appellant:MR.P.SRIDHAR REDDY

Counsel for the Respondent No.1: MR. M.V.DURGA PRASAD

Counsel for the Respondent No.2.GP FOR COOPERATION

The Court delivered the following :

THE HON'BLE SRI JUSTICE GODA RAGHURAM

AND

THE HON'BLE DR. JUSTICE G. YETHIRAJULU

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WRIT APPEAL NO.972 OF 2005

JUDGMENT: (per the Hon'ble Sri Justice Goda Raghuram)

Heard the learned counsel for the appellant, and of the first respondent.

The appeal is directed against the order dt.7.4.2005 in Writ Petition No.7836 of 2005 whereby the learned Single Judge has directed the appellant not to allot plot to any person pending disposal of O.P.No.317 of 2004 on the file of second respondent Tribunal.

The facts in brief are that the first respondent was member of appellant-society and was allotted a duplex house in the housing society of the appellant. The allotment was cancelled, as against which first respondent preferred O.P.No.317 of 2004 before the Andhra Pradesh Cooperative Tribunal, Hyderabad. In the O.P. the first respondent preferred I.A.No.1556 of 2004 seeking a direction to the appellant not to allot the plot in question to any other person pending disposal of the O.P. The said

application for interim relief was rejected by the Tribunal, where against the Writ Petition was filed and the aforesaid order was passed by the learned Single Judge.

On behalf of the appellant, it is contended by learned counsel Sri P. Sridhar Reddy that except first respondent herein all other members of the appellant society, who have been allotted plots, have fulfilled all the conditions of allotment, paid the amounts and had the plots registered in their name. Even some of them had applied and obtained bank loans. It is only the first respondent, who has defaulted both in payment of processing fee, as well as the amount of instalments due and payable. The construction of houses has been entrusted to a builder and the builder is insisting for payment of the contractual amount and in view of the direction of the learned Single Judge, the appellant would be put to irreparable loss and hardship.

Sri M.V.Durga Prasad, learned counsel for the first respondent, to the contra, states that the appellant society has not fulfilled all the conditions that would have entitled grant of loan and therefore first respondent could not pay the instalment amount due for the allotment of plot.

In view of the contentions on behalf of the appellant that all other allottees were given identical documents, on the basis of which they have obtained bank loans, this Court finds no justification by the first respondent to insist on additional documents to be given to him.

In the aforesaid circumstances, the Writ Petition is disposed of. The order of the learned Single Judge is modified as under.

The first respondent shall pay the amount due to appellant society within four weeks from today and comply with all other conditions which entitles transfer of the title of the plot allotted to him by the appellant society. The appellant is directed to furnish all the documents, which are furnished to the other allottees of its society, to the first respondent within one week from today to enable him to obtain bank loan. On default by the first respondent in paying the entire amount due to the appellant society, including any incidental charges such as processing fee, within four weeks as stipulated hereinabove, the appellant society would be at liberty to proceed to dispose of plot in its discretion and in accordance with law.

The Writ Appeal is accordingly disposed of.

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(GODA RAGHURAM, J)

3.5.2005

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(G. YETHIRAJULU, J)

bnr/rrb

DEPUTY REGISTRAR

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SECTION OFFICER

To.

1. The Presiding Officer, Andhra Pradesh Cooperative Tribunal

Hyderabad

2. 2 CCs to G.P. for Cooperation, High Court Bldgs., Hyderabad (OUT)

3. 2 CD copies